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United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

August 7, 2008

SO ORDERED

The government's time to respond
to defendants' pretrial motion is
extended to August 27, 2008

AUG 19 2008 *George B. Daniels*
HON. GEORGE B. DANIELS

By Fax (212) 805-6737
Honorable George B. Daniels
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *United States v. David Wilkins, et al.*
S1 07 Cr. 566 (GBD)

Dear Judge Daniels:

The Government respectfully submits this letter to update the Court about the progress it has made in this case since the last pretrial conference and to request an extension of time to file its opposition to the defendants' pretrial motions.

At the last pretrial conference in this matter on June 10, 2008, the Government informed the Court that it anticipates that only three defendants – David Wilkins, Terrence McGee, and Jamar Jones – may proceed to trial in this case. Because the defendants requested additional time to consider plea offers, the Court scheduled an additional pretrial conference for August 20, 2008, at 9:45 a.m., and advised the Parties that a trial date would be scheduled at the August 20 conference for any defendants who do not plead guilty by that date. Your Honor further instructed the Government to file an opposition brief to the defendants' omnibus pretrial motions (including a motion to suppress multiple wiretap applications) prior to the August 20 conference, and preferably in July 2008. In light of the Court's instructions and the nature and complexity of the defendants' omnibus pretrial motions, the Government advised all defense counsel that it would oppose awarding the third acceptance point under U.S.S.G § 3E1.1(b) for any defendant who pleads guilty after the Government files its opposition to the defendants' pretrial motions.

Since the last conference, the Government has concluded plea discussions with two more defendants: David Wilkins and Terrence McGee. Specifically, on or about July 10, 2008, David Wilkins pled guilty to the indictment pursuant to a plea agreement with the Government. In addition, following a safety valve proffer with Terrence McGee, the Government has recently concluded that McGee is safety valve eligible under 18 U.S.C. § 3553(f) and anticipates that McGee will plead guilty pursuant to a plea agreement in advance of the August 20 conference. Thus, the pretrial motions of defendant Wilkins are moot, and those filed by defendant McGee will soon be rendered moot. At this point, it appears that the only defendant that may go to trial

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in this case is Jamar Jones, who has yet to inform the Government whether he intends to plead guilty or proceed to trial.

Yesterday, defense counsel for Jamar Jones, Irving Cohen, Esq., contacted the undersigned to inform the Government that defense counsel and Jones are continuing to discuss a possible plea in this case and to request that the Government delay its filing of opposition papers to the defendant's pretrial motions in order to preserve Jones's ability to qualify for the third acceptance point under U.S.S.G § 3E1.1(b). The loss of the third acceptance point would increase Jones's stipulated Guidelines range by at least 14 months' incarceration, and may make it more difficult to negotiate a plea in this case. Accordingly, the Government respectfully requests, with the consent of defense counsel for Jamar Jones, an extension of time to file its opposition to the defendant's pretrial motions. In the event that Jones does not plead guilty at the August 20, 2008 court conference, the Government will be prepared to file its opposition brief no later than August 27, 2008, and will be prepared to proceed to trial as early as late September 2008.

Respectfully submitted,

MICHAEL J. GARCIA
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By:


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